

# EXHIBIT 5



# DETROIT POLICE DEPARTMENT

## MANUAL

<b>Series</b> 100 Administration	<b>Effective Date</b> 9/9/2014	<b>Review Date</b> Annually	<b>Directive Number</b>  <b>102.6</b>
<b>Chapter</b> 102 - Standards of Conduct			
<b>Reviewing Office</b> Office of Chief Investigator			
<b>References</b>			

## CITIZEN COMPLAINTS

### 102.6 - 1 PURPOSE

To inform all Detroit Police Department (DPD) members of the procedures for accepting, processing and investigating complaints concerning the *Department*; allegations of employee misconduct; and to list and define the dispositions of complaints.

### 102.6 - 2 POLICY

The public image of the DPD is determined by a professional response to allegations of misconduct by its employees. All complaints against the DPD and/or employee conduct shall be accepted and investigated fairly and impartially to determine the validity of allegations. Any disciplinary actions that may be justified shall be imposed in a timely and consistent manner. It is the policy of the DPD and the Office of the Chief Investigator (OCI) that:

- All complaints against the DPD and/or employee conduct shall be accepted and documented whether the complaint is filed in writing, in person, by mail, by telephone (or TDD), facsimile or electronically, anonymously, or online at the Board of Police Commissioners' website;
- All complaints against members of the DPD shall be referred to the OCI for investigation and resolution; *however*, if the complaint alleges potential criminality or a serious use of force by a member, *it shall be investigated* by Internal Controls (IC);
- IC and OCI shall complete all investigations within ninety (90) days of receiving the complaint;
- Upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended;
- Upon completion of an investigation by OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action; and
- All investigations shall be thorough and complete.

# **DETROIT POLICE DEPARTMENT**

## **MANUAL**

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### **102.6 Citizen Complaints**

#### **102.6 - 3 Definitions**

##### **102.6-3.1 Citizen Complaint Report (CCR)**

This report is utilized to record a complaint regarding the conduct of any department personnel, policy or action. This report is located in the Management Awareness System (MAS). The paper CCR form number is DPD512.

##### **102.6-3.2 Complaint**

An allegation from any source of any misconduct by DPD personnel.

##### **102.6-3.3 Complainant**

Any individual who files a complaint regarding the conduct of any department personnel, policy or action.

##### **102.6-3.4 Conveyance**

Any instance when DPD transports a non-DPD employee for any purpose.

##### **102.6-3.5 Complaint Control Number**

A sequential number used to identify and track citizen complaint investigations. *The complaint control number is pre-printed on the (paper) Citizen Complaint Report (DPD512).*

##### **102.6-3.6 Critical Firearm Discharge**

Each discharge of a firearm by a DPD officer with the exception of range and training discharges and discharges at animals.

##### **102.6-3.7 Discipline**

A written reprimand, suspension, demotion or dismissal.

##### **102.6-3.8 External Complaint**

A complaint that originates from outside the department.

##### **102.6-3.9 Internal Complaint**

A complaint that originates from within the DPD. Such complaints may be initiated by other DPD employees or from supervisors who observed or were informed by other employees of possible policy violations. *An Inter-Office Memorandum (DPD 568) shall be completed and submitted to the commanding officer.*

##### **102.6-3.10 Internal Controls (IC)**

The command of the DPD that investigates serious uses of force and allegations of criminal misconduct *or severe department misconduct* by DPD employees.

##### **102.6-3.11 Misconduct**

Any conduct by a DPD employee that violates DPD policy or the law.

# **DETROIT POLICE DEPARTMENT**

## **MANUAL**

---

### **102.6 Citizen Complaints**

#### **102.6-3.12 Non-Disciplinary Corrective Action**

Counseling, training or other action apart from discipline taken by a DPD supervisor to enable or encourage an officer to modify or improve his/her performance.

#### **102.6-3.13 Office of the Chief Investigator (OCI)**

The office that has the responsibility of investigating external complaints.

#### **102.6-3.14 Serious Bodily Injury**

An injury that involves a loss of consciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part or organ, or a substantial risk of death.

#### **102.6-3.15 Serious Use of Force**

Any action by an officer that involves: 1) the use of deadly force, including all critical firearm discharges; 2) a use of force in which the person suffers serious bodily injury or requires hospital admission; 3) a canine bite; or 4) the use of chemical spray against a restrained person.

#### **102.6-3.16 Supervisor**

A sworn DPD employee at the rank of *Investigator* or above and non-sworn employees with oversight responsibility for DPD employees.

#### **102.6-3.17 Serious Use of Force**

*The term "serious use of force" means any action by a DPD officer that involves:*

- The use of deadly force, including all critical firearms discharges;*
- A use of force in which the person suffers serious bodily injury or requires hospital admission;*
- A canine bite; and*
- The use of chemical spray against a restrained person.*

### **102.6 - 4 Jurisdiction**

#### **102.6-4.1 General**

The investigation of citizen complaints regarding allegations of police misconduct or complaints of DPD service is the primary responsibility of the OCI. The primary responsibility for investigating allegations of criminality on the part of a member shall rest with IC.

#### **102.6-4.2 Office of the Chief Investigator (OCI)**

1. The OCI is the primary investigative arm of the Board of Police Commissioners (BPC) and investigates complaints on behalf of the Board.

## **DETROIT POLICE DEPARTMENT**

### **MANUAL**

---

#### **102.6 Citizen Complaints**

2. In accordance with the Detroit City Charter, the BPC shall receive any complaint against the DPD or employee or any citizen complaint concerning the operation of the DPD.
3. The Office of the Chief Investigator shall investigate a complaint immediately and complete a report of findings.
4. All complaints received by the OCI regarding allegations of criminality and/or a serious use of force by a DPD employee shall be referred to IC. If the complaint involves possible criminal conduct on the part of any DPD member or city employee, the OCI shall immediately notify Internal Controls during normal business hours.
5. The Chief Investigator, or his/her designee, shall complete his/her review of OCI investigations within seven (7) days of completion of the supervisor's review.
6. *Immediately upon the Chief Investigator's review*, the investigation shall be submitted to the Board of Police Commissioners who shall complete their review of OCI investigations within forty-five (45) days of the completion of the Chief Investigator's review. The OCI shall forward the Citizen Complaint Report (CCR) and the findings of each allegation to the Chief of Police, or his/her designee, *the involved member(s) and the citizen*.
7. The Chief of Police, or his or her designee, shall complete their review of external complaints within seven (7) days of the Board of Police Commissioners' review. The Chief of Police, or his/her designee's, review should include, but is not limited to, appropriate disciplinary action and policy review.

#### **102.6-4.3 Internal Controls (IC)**

Internal Controls is responsible for investigating and recommending the prosecution of criminal misconduct on the part of DPD members and the following:

1. Compiling comprehensive reports delineating departmental misconduct arising out of criminal misconduct investigations;
2. Preparing suggested revisions of DPD procedures where existing deficiencies have been a contributing factor in misconduct;
3. Gathering evidence and recommending the prosecution of cases in which criminals have attempted to bribe members and/or other public officials;
4. Recommending prosecution of those who falsely report that a member has committed a crime;
5. Determining responsibility for criminal misconduct investigations; and
6. Maintaining Internal Controls Alert Teams twenty-four (24) hours a day to respond immediately and take charge of the initial investigation in those situations where criminal misconduct *or category one (1) uses of force* has been committed by a member of the DPD (the Homicide Section retains original jurisdiction in all homicides).

# **DETROIT POLICE DEPARTMENT**

## **MANUAL**

---

### **102.6 Citizen Complaints**

#### **102.6 - 5 Responsibilities**

##### **102.6- 5.1 General**

The DPD encourages citizens to bring forward legitimate complaints regarding possible misconduct by members. All officers while on patrol shall carry informational brochures and citizen contact forms in their vehicle, at all times, while on duty.

##### **102.6- 5.2 Members**

1. All members must courteously inform an individual of his/her right to make a complaint, if an individual objects to a member's conduct. This includes the complaints from an individual that is in DPD custody and/or at the Detroit Detention Center (DDC).
2. Members have a duty to assist any person who wishes to file a citizen's complaint by providing them with an informational brochure and a citizen contact form or promptly putting the complainant in contact with a supervisor who can assist them with filing his/her complaint.
3. No member shall refuse to assist, discourage, interfere with, hinder, delay, or obstruct any person who wishes to file a citizen complaint.
4. Members who withhold information, fail to cooperate with departmental investigations, or fail to report the misconduct of members to a supervisor, shall be subject to disciplinary action.

##### **102.6- 5.3 Supervisors**

1. Citizen complaints shall be accepted by any supervisor of the DPD who is approached for such assistance. No supervisor shall refuse to take a citizen complaint or discourage, interfere with, hinder, delay or obstruct a person from making a citizen complaint.
2. Complaints made by individuals that are in DPD custody and/or *at the DDC* shall be accepted by the supervisor that becomes aware of the complaint and investigated in accordance with the policies contained in this directive.
3. The primary responsibility for maintaining and reinforcing officer conformance with the standards of conduct shall be with the first-line supervisors.
4. Supervisors shall familiarize themselves with the officers under his/her command and closely observe their general conduct and appearance on a daily basis.
5. Supervisors should remain alert for indications of behavioral problems or changes that may affect an officer's job performance.
6. A supervisor may recommend non-disciplinary corrective action (e.g., additional training) to reinforce and/or refresh the officer's skills.
7. Supervisors shall take corrective action, within the scope of his/her authority, when they witness or become aware of minor, infrequent rule violations (e.g., tardiness, uniform violations, etc.), and shall discuss the substance and importance of the rules with officers under his/her command.



# DETROIT POLICE DEPARTMENT

## MANUAL

### 102.6 Citizen Complaints

8. Supervisors should document all instances of counseling (Administrative Counseling Register) or additional training (e.g., training records) used to modify an officer's behavior.

### 102.6 - 6 Acceptance/Filing of Complaints

#### 102.6 -6.1 General

1. Citizen complaints shall be accepted at any DPD command, the OCI, the Board of Police Commissioners' Office, or the Board of Police Commissioners' weekly public meeting, *or on-line via the DPD's Intranet and the Board of Police Commissioners websites*. The DPD will accept complaints from any source, including witnesses or other third parties, outside agencies and anonymous sources.
2. Every complaint against the DPD or any member of the DPD shall be accepted by a supervisor in the command where the complaint is made, regardless of where the alleged incident occurred, or where the member(s) involved is assigned.
3. If a complaint is received beyond one (1) year of the occurrence of an incident, the Chief Investigator shall review the complaint and determine if a reasonable basis exists upon which to proceed with the investigation.

#### 102.6 -6.2 Complaint Intake Procedure

1. All members of the DPD shall provide assistance to those who express the desire to lodge complaints against any member(s) of the DPD as follows:
  - a. *Any member who is approached by a citizen(s) wishing to make a complaint while inside a police facility (bureau, precinct, or any other command) shall promptly put that citizen(s) in contact with a supervisor who will document their complaint;*
  - b. *Any member who is approached by a citizen(s) wishing to make a complaint while he/she is deployed in the field (patrol, investigative or commands) shall inquire as to whether the citizen(s) would prefer to file the complaint over the phone, through the mail, *on line* or have a police supervisor respond to the scene to take their complaint;*
  - c. Depending on the citizen's preference, the officer shall either provide the citizen with an informational brochure and a citizen contact form, or request a supervisor through the zone dispatcher who shall respond immediately to the scene to document his/her complaint. In the event that no supervisor is available to respond immediately, the member shall courteously inform the citizen of this fact and provide the citizen with an informational brochure and a citizen contact form;
  - d. *Any officer who provides a citizen with an informational brochure and a citizen contact form shall document that fact on his/her Activity Log (DPD 250). The officer shall complete a Contact Information Supplement Card, including the contact form number provided to the citizen, and the officer's name and badge number. The officer shall give his/her supervisor any completed*

# DETROIT POLICE DEPARTMENT

## MANUAL

### 102.6 Citizen Complaints

Contact Information Supplement Cards by the end of the shift in which it was distributed; and

- e. Every effort shall be made by all members to facilitate the convenient, courteous, and prompt receipt and processing of citizen complaints. Any member who interferes with, discourages, hinders, or delays the making of complaints shall be subject to disciplinary action.
2. If the complaint involves possible criminal conduct or a serious use of force on the part of any DPD member or city employee, the supervisor shall immediately notify the IC Alert Team. During normal business hours, the supervisor may contact IC directly. If other than normal business hours, the IC Alert Team shall be contacted through Communications Operations. The supervisor who contacted the IC Alert Team shall log his/her name and badge number, the name of the person notified at IC (or Communications Operations) and the complainant's name (if available), in the precinct or command Citizen Complaint Referral Logbook.
3. If the IC Alert Team concurs with the intake supervisor's assessment that the complaint involves potential criminal conduct, the IC Alert Team will respond to the complainant's location. Depending on the nature of the complaint, the IC Alert Team may direct the intake supervisor to have a CRISNET Report prepared on the incident and forward same to IC. If IC takes jurisdiction of the complaint, upon receipt, they will provide the complainant with the IC case number.
4. If the complaint is non-criminal in nature, the intake supervisor shall enter a CCR in MAS.
5. The intake supervisor shall document the complaint number and complaint information in the electronic desk blotter, under "Customer Service." Once the CCR is completed, the supervisor shall make a blotter entry indicating the CCR was forwarded.
6. No member involved in a situation that results in a citizen complaint being filed, shall be present during any interview with the complainant(s) or witness(es).
7. All commands are responsible for maintaining an adequate supply of the DPD512, to be utilized in the event that MAS becomes non-operational. Requests for a supply of the reports shall be made to OCI during normal business hours, Monday through Friday, 8:00 a.m. – 4:00 p.m.
8. In the event that a Citizen Complaint Report (DPD512) is completed due to MAS being non-operational, the intake command shall forward the report to OCI within forty-eight (48) hours with the exception of weekends and holidays.
9. OCI shall enter the CCR information into MAS upon receipt of the DPD512.

#### 102.6 -6.3 Citizen Complaint Report Referral Logbook

1. Each command shall maintain a Citizen Complaint Report Referral Logbook to account for each CCR prepared by the command.
2. The Citizen Complaint Referral Logbook entry shall include the MAS CCR form number (or DPD512 control number, if applicable), the complainant's name, address, telephone number; the date, time, and nature of the complaint; the



# DETROIT POLICE DEPARTMENT

## MANUAL

### 102.6 Citizen Complaints

- method of complaint (e.g., walk-in, telephone, etc.); and if resolved, how this was accomplished (e.g., provided information, explained procedure, etc.).
3. If, for any reason, a DPD512 is rendered unusable (e.g., torn, soiled), the report shall be marked "void" and forwarded to the OCI. A DPD512 shall not, for any reason, be discarded. The word "void," the date, and the name and badge number of the supervisor voiding the form, shall be entered on the same line as the number of the voided form in the logbook. Personnel of the OCI shall void the unusable report in the OCI CCR logbook when the report is received.
  4. The Citizen Complaint Referral Logbook is a permanent record and shall be maintained at every command's desk.

#### 102.6 -6.4 Complaints of a Sensitive Nature

1. If a complaint is of a sensitive nature (e.g., involves a public official), the supervisor shall notify his/her commanding officer and the OCI immediately.
2. If the complaint involves an incident or situation in which immediate action is necessary to confirm, refute, or preserve evidence of a fragile or temporary nature, the commanding officer or officer-in-charge (OIC) of the desk shall immediately take appropriate action to prevent the loss of evidence. If assistance is needed to determine if there is a need for immediate action, the OCI can be contacted Monday through Friday, 8:00 a.m. to 4:00 p.m. At all other times, personnel assigned to the OCI can be contacted through Communications Operations.

#### 102.6 -6.5 Complaints Arising out of the DDC

1. The commanding officer of *the DDC* shall ensure that *the DDC* accepts and processes all external complaints regarding incidents occurring *at the DDC* consistent with this directive.
2. The commanding officer shall ensure that all external complaints received regarding incidents occurring *at the DDC* are referred to OCI or IC for investigation and review or are informally resolved consistent with this directive.

#### 102.6 -6.6 Allegation of Use of Force Complaints

In all instances where a citizen alleges that force was used, the supervisor receiving the complaint shall document the incident on a Use of Force and/or Detainee Injury Report (UF-002), and complete a CCR in MAS (Refer to Directive 201.11 – Use of Force Reporting and Investigation for supervisor's responsibilities, notifications, investigations, and distribution of reports).

#### 102.6 -6.7 Citizen Claims of Property Damage (Police Action)

1. If a citizen states a desire to make a complaint against the Department or any of its officers in conjunction with a claim of property damage resulting from police action, the matter shall be handled in accordance with citizen complaint procedures, including the preparation of a Citizen Complaint Report.

## **DETROIT POLICE DEPARTMENT**

### **MANUAL**

---

#### **102.6 Citizen Complaints**

2. Pursuant to Detroit City Code 2-4-18, if a citizen states a desire to only seek remuneration for a claim of property damage, the citizen shall be directed that any such claims must be filed in writing to the city of Detroit, Law Department, Claims Section, or by telephone at (313) 224.4550. If the OCI is investigating a citizen complaint arising from the same incident, the Law Department, Claims Section, will defer processing any related claim until such time as a final disposition has been made concerning the citizen complaint.
3. Upon receipt of a claim for money or damages against the DPD or its officers, the Law Department, Claims Section, will review the circumstances, prepare an official claims report, and (if necessary) designate the appropriate command to investigate the incident.
4. The designated command will receive an Inter-Office Memorandum (DPD 568) from the Law Department, Claims Section, with information regarding the names of any DPD member(s) associated with the claim, the date of the incident which precipitated the claim, the claimant's name and a brief description of the claim.
5. The investigating command shall submit an investigation and report on an Inter-Office Memorandum (DPD568) which shall be endorsed by the commanding officer of the precinct or command. The report shall include results of the investigation and recommendations concerning whether or not the claim should be honored.
6. The completed report and supporting documentation shall be forwarded directly to the Law Department, Claims Section, within twenty (20) days from receipt of the Law Department's memorandum.
7. A Citizen Claim for Property Damage and/or Personal Injury (DPD 646) shall be attached as a coversheet to the investigation and report.

#### **102.6 -6.8 Resolution of Complaints**

If the complaint alleges only inadequate service, or the complainant's alleged innocence of a charge, and the complaint can be resolved to the citizen's satisfaction, the supervisor shall complete a CCR in MAS. The CCR shall indicate how the complaint was resolved, then routed through MAS to the OCI. A desk blotter entry shall be made and an entry in the Citizen Complaint Referral Logbook shall be made indicating that the complaint was resolved.

#### **102.6 -6.9 Verification of Complaint Receipt**

1. The intake supervisor shall give the person making the complaint information regarding the citizen complaint process. If a citizen complaint is made in person, the supervisor shall print a copy of the completed CCR and give it to the complainant/agent only.
2. If a citizen complaint is made over the telephone, by email or by a letter, personnel from the OCI will mail the complainant a copy of the completed CCR and a brochure about the citizen complaint process and a letter advising the complainant of the name of the investigator assigned to handle the investigation.

# **DETROIT POLICE DEPARTMENT**

## **MANUAL**

### **102.6 Citizen Complaints**

#### **102.6 -6.10 Status Reports on Complaints**

1. The OCI shall periodically keep complainants informed regarding the status of the investigation (Refer to OCI's Standard Operating Procedures [SOP]).
2. If a complaint is referred to IC, the OCI shall inform the complainant of that fact. Thereafter, it is the responsibility of IC to keep the complainant informed of the complaint's status.
3. Complainants shall be notified that the investigation is still pending if a citizen complaint remains open and without disposition after 45 days.
4. The date of the notification(s) and the method of notification shall be documented in the case file.

#### **102.6 - 7 Preparation of the Citizen Complaint Report in the Management Awareness System (MAS)**

##### **102.6-7.1 Guidelines**

The following guidelines are outlined to complete a Citizen Complaint Report in the MAS:

1. Member Preparing Report - The supervisor completing the report shall log into MAS and select "new document" under his/her dashboard. The supervisor shall click the "fill form" button under "OCI Citizen Complaint." The system will auto-fill the name of the logged in supervisor, along with the date and time;
2. Mode of Complaint – From the drop down list, select the method used to make the complaint (electronic mail, in custody, letter, online, outside agency, etc.);
3. Command Receiving Complaint – Begin typing the name of the command where the complaint is received, then select the appropriate command from the drop down list;
4. Incident Date and Time – The date shall be entered using the MM/DD/YYYY format; the incident time shall be entered in military time (HH:MM – the colon must be used);
5. Complaint Entered Elsewhere – Ask the person reporting the complaint whether the incident or matter of complaint has been filed at another police facility or non-police agency, e.g., Michigan Department of Civil Rights, Ombudsman, Mayor's Office, NAACP, etc. If so, click on the box provided in the section and enter the location, mode and date of the complaint;
6. Complainant – If complainant has made a prior complaint(s), begin typing the last name and select the name from the drop down list. The related identifying information will auto populate. Changes can be made, if necessary. If this is the complainant's first complaint, complete all applicable fields. If a particular field is not applicable, enter "N/A";
7. Adding a Witness or Agent – In the "Witness/Agent" field, select the "Citizen Type" from the drop down list. Enter the required information (\*). Selecting the

# DETROIT POLICE DEPARTMENT

## MANUAL

### 102.6 Citizen Complaints

- “+” button in the “Add Witness/Agent” field will allow for multiple witnesses or agents to be added;
8. Location of Incident – Enter the street number, name, direction, and street type (from the drop down); city/state/zip code; and intersection, if applicable;
  9. Involved Member(s) – Begin typing the last name of the involved member, then select the name from the drop down list. Click the “Add” button to include the member’s name on the report. Multiple members can be added to the report by repeating the above step. Enter “UNKNOWN” in this field if the involved member(s) is unknown (*Only type the member’s name if it is certain that the member mentioned was in fact involved; if there is any uncertainty, attempt to get a full description of the member being accused*),
  10. Number of Witnesses – Enter the number of witnesses who observed the incident;
  11. Area of Concern – For each member involved in the complaint, select from the following list of area(s) of concern. Select the area that best categorizes the allegation(s) of the complaint as follows:
    - **Arrest:** Complaint that the restraint of a person’s liberty was improper or unjustified.
    - **Demeanor:** Complaint regarding a DPD member’s bearing, gesture, language, or other action, which is offensive or of doubtful social propriety, or gives the appearance of conflict of interest, misuse of influence, or lack of jurisdiction or authority.
    - **Entry:** Complaint that entry into a building or onto property was improper and/or that excessive force was used against property to gain entry.
    - **Force:** Complaint regarding the use or threatened use of force against a person.
    - **Harassment:** Complaint that the method of police action was predicated upon factors irrelevant under the circumstances to good law enforcement decision-making (e.g., race, attire, sex, age) or complaint of improperly selective law enforcement on the basis of factors just listed.
    - **Procedure:** Complaint regarding other actions in violation of DPD rules, regulations, procedures or policies, or the Law Enforcement Code of Ethics.
    - **Property:** Complaint regarding property lost or damaged while in police custody or confiscated through police action.
    - **Search:** Complaint that the search of a person or his/her property was improper, or in violation of established police procedure, or unjustified.
    - **Service:** Complaint regarding the lack, tardiness or inadequacy of police service;
  12. Resolution – Select the resolution type from the drop down box – “Informally Resolved” or “Further Investigation”. If “Informally Resolved” is selected, the supervisor shall select “inadequate service or innocence of a crime” (only



# DETROIT POLICE DEPARTMENT

## MANUAL

### 102.6 Citizen Complaints

allegations of inadequate service or innocence of a charge may be informally resolved);

13. The supervisor shall enter in the "Resolution" box, the steps/actions taken to informally resolve the complaint;
14. Details of Incident/Circumstances – Document a precise description and facts of the incident or matter of complaint in this section. Details of specific allegation(s) against each member should be given. If the person reporting the complaint is not the complainant, record the person's involvement in the incident or the source of the person's knowledge of the incident. Record all significant circumstances concerning the person making the complaint and the manner of making the complaint. For example, if the complainant alleges physical abuse, look for and ask about signs of impairment or injury. If the complainant or a witness appears intoxicated, overwrought or agitated, record that fact. Do not include any personal conclusions or assumptions concerning the complainant's mental capacity or veracity;
15. Accepting/Refusing the Complaint – Read the circumstances back to complainant as written. Ask the complainant if the nature of the complaint was accurately captured. Select the appropriate response;
16. Route To - Once the CCR is completed in MAS and has been accepted by the complainant/agent, the supervisor shall *submit* the report *that will go to OCI*.

Once the CCR has been accepted by the complainant/agent, the reporting supervisor shall print one (1) copy of the report and give it to the complainant/agent. No member(s) or witness(es) shall receive a copy of the CCR.

#### 102.6-7.2 Release of Medical Records

1. If the citizen making the complaint has received or intends to seek medical treatment for injuries sustained as a result of the alleged incident, the member shall request that a Medical Record Release Authorization (DPD332), is completed.
2. The signature of the complainant is needed on a DPD332, for each treating facility. If the complainant is seventeen (17) years of age or under, a parent or legal guardian must co-sign the Medical Record Release Authorization (DPD332) unless the complainant can show that he/she is a legally emancipated juvenile.
3. The Medical Record Release Authorization (DPD332) (if applicable), shall be cross-referenced with the CCR form number, and forwarded to the commanding officer of the supervisor taking the complaint.

### 102.6 - 8 Investigations of Citizen Complaints

#### 102.6- 8.1 General

1. All investigations shall to the extent reasonably possible, determine whether the officer's conduct was justified. No investigation being conducted by either the OCI or



## **DETROIT POLICE DEPARTMENT**

### **MANUAL**

---

#### **102.6 Citizen Complaints**

- IC shall be closed simply because a subject or complainant is unavailable, unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury.
2. All command level citizen complaint investigations shall be conducted by a supervisor who did not authorize, witness or participate in the incident, and all investigations shall contain:
    - a. Documentation of the name and badge number of all officers involved in and/or on the scene during the incident;
    - b. A canvass of the scene to identify civilian witnesses;
    - c. Thorough and complete interviews of all witnesses, subject to the DPD's Garrity Protocol (refer to Training Directive 04-4);
    - d. An effort to resolve material inconsistencies between witness statements;
    - e. Photographs of injuries or alleged injuries (subject and/or officer); and
    - f. Documentation of any medical care provided.

#### **102.6- 8.2 Interviews**

1. All investigatory interviews shall require:
  - a. Officers who witness or are involved in an incident to provide a timely statement regarding the incident subject to the DPD's Garrity Protocol (refer to Training Directive 04-4);
  - b. Whenever practicable and appropriate, interviews of complainants and witnesses *shall* be conducted at sites and times convenient for them, including at their residences or places of business;
  - c. All IC, OCI, and critical firearm discharge investigations shall also include in-person video or audio tape recorded interviews of all complainants, witnesses, and involved DPD officers. Group interviews are prohibited; and
  - d. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a statement signed by the complainant/witness refusing an in-person video or audio tape recorded interview.
2. All investigatory interviews prohibit:
  - a. The use of leading questions that improperly suggest legal justifications for the officer's actions, when such questions are contrary to appropriate law enforcement techniques; and
  - b. The use of interviews via written questions when it is contrary to appropriate law enforcement techniques.

#### **102.6- 8.3 Reports**

1. All investigatory reports and evaluations shall require:
  - a. A precise description of the facts and circumstances of the incident, including a detailed account of the subject's or complainant's, and officer's actions, and an evaluation of the initial stop or seizure;
  - b. A review of all relevant evidence, including circumstantial, direct, and physical evidence;

## **DETROIT POLICE DEPARTMENT**

### **MANUAL**

---

#### **102.6 Citizen Complaints**

- c. That the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;
- d. Reasonable credibility determinations with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant;
- e. An evaluation of whether an officer complied with DPD policy;
- f. An evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;
- g. All administrative investigations shall be evaluated based on a preponderance of the evidence standard;
- h. Written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough. The investigator's vacation or workload shall result in the investigation and report being reassigned; and
- i. Any recommended non-disciplinary corrective action or disciplinary action shall be documented in writing up to the rank of commander.

#### **102.6- 8.4 Review**

- 1. All investigations shall adhere to the following:
  - a. Investigations shall be reviewed by the chain of command above the investigating supervisor;
  - b. The reviewing supervisor(s) shall identify any deficiencies in the investigations and require the investigator to correct any deficiencies within seven (7) days of the initial submission of the report and evaluation to the reviewing supervisor;
  - c. The reviewing supervisor shall make the appropriate recommendation, and the final reviewing authority shall refer any incident with training, policy, or procedural implications to the appropriate DPD entity;
  - d. The appropriate non-disciplinary corrective action (verbal counseling, additional training, etc.), and/or disciplinary action shall be recommended by any member of the reviewing chain of command when an investigator and/or reviewing supervisor fails to comply with this directive or DPD policies or procedures; and
  - e. A written explanation shall be prepared by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.

# **DETROIT POLICE DEPARTMENT**

## **MANUAL**

---

### **102.6 Citizen Complaints**

#### **102.6- 8.5 Criminal Investigations**

1. If any complaint involves potentially criminal conduct on the part of any DPD member or city employee, the intake supervisor shall immediately notify the Internal Controls Alert Team. (Refer to Complaint Intake Procedure [Section 6.2 of this directive]). During normal business hours, the supervisor may contact IC directly. If other than normal business hours, the Alert Team shall be contacted through Communications Operations.
2. Criminal investigations focus upon alleged or suspected criminal activity by a member. If the criminal prosecution of a member is a possibility, IC shall assume responsibility for conducting the investigation.
3. Acquittal on a criminal charge does not prevent the DPD from taking appropriate administrative action against a member.

#### **102.6- 8.6 Administrative Investigations**

1. Administrative investigations are non-criminal investigations. Criminal investigations regarding alleged or suspected criminal activity by a member shall always take precedence over administrative investigations.
2. The OCI shall be responsible for investigation of complaints when a citizen makes an allegation of non-criminal misconduct or non-performance of duty. Examples of this type of investigation would include allegations related to the quality of service, professionalism or demeanor.

#### **102.6- 8.7 Special Examinations**

1. In the course of an administrative investigation, in accordance with state/federal law, and the respective collective bargaining agreement, an officer may be compelled to:
  - a. Participate in a lineup;
  - b. Undergo a medical or laboratory examination;
  - c. Be photographed;
  - d. Submit a financial disclosure statement; or
  - e. Submit to a breathalyzer test.
2. If an administrative investigation becomes a criminal investigation, these tests or conditions may be utilized in accordance with departmental investigative procedures and the law, as in any other criminal investigation.
3. Pursuant to State of Michigan law, an employee may not be required to submit to a polygraph test.

#### **102.6- 8.8 Request for Information**

1. If during the course of an investigation, it is determined that a member witnessed or may have knowledge of an incident, which is the subject of a citizen complaint, that member shall provide any information known to them. These requests for information may be done in oral or written form.
2. Whenever a member is required to submit a statement, it shall be done in a manner consistent with the law and all DPD policies and procedures.

# DETROIT POLICE DEPARTMENT

## MANUAL

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### 102.6 Citizen Complaints

#### 102.6- 8.9 Member's Rights

1. Members accused of violating criminal codes or ordinances shall be entitled to his/her full rights under the federal and state constitution.
2. Citizen complaint investigations shall be conducted in a manner consistent with the law and all DPD policies and procedures.

### 102.6 - 9 Adjudication of Complaints

#### 102.6 -9.1 Categorization of Findings

The disposition of completed citizen complaint investigations shall be classified as:

1. **Unfounded** - The investigation revealed no facts to support that the incident complained of actually occurred;
2. **Sustained** - A preponderance of the evidence shows that the alleged conduct did occur and the actions of the officer violated DPD policies, procedures, or training;
3. **Not Sustained** - There are insufficient facts to decide whether the alleged misconduct occurred; or
4. **Exonerated** - A preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.

#### 102.6 -9.2 Disposition

1. Upon completion of either an IC or OCI investigation, the complainant shall be notified by IC or OCI of the disposition of his/her complaint including an appropriate statement regarding *the findings (sustained, unfounded, etc)*.
2. In the event that non-disciplinary corrective action or disciplinary action was taken subsequent to the complainant's initial notification of the disposition of his/her complaint, IC or OCI shall later provide the complainant with an appropriate statement regarding the *new findings*, non-disciplinary or corrective action that was taken.
3. All OCI case findings shall be submitted to the Board of Police Commissioners' Citizen Complaints Subcommittee. After the findings are approved by the BPC Subcommittee, all complaints will be forwarded to the Chief of Police for appropriate disciplinary action, and if applicable, review for other issues, e.g., policy, risk, training, etc. In no case shall a finding of sustained be overruled by any deputy chief or commanding officer of any precinct or command. The Chief of Police, or his/her designee, shall complete his/her review of all external complaints and findings within seven (7) days of completion of the BPC's review.
4. If the Chief of Police disagrees with the findings of the Board of Police Commissioners' Citizen Complaints Subcommittee, the Chief of Police shall notify the Chief Investigator within seven (7) days, in writing of the reason for the disagreement. A meeting between the Chief of Police, or his/her designee, and the Chief Investigator shall be held within seven (7) days of notification of disagreement for the purpose of resolving the difference. If the issue is not



# DETROIT POLICE DEPARTMENT

## MANUAL

### 102.6 Citizen Complaints

- resolved, the Board of Police Commissioners' Citizen Complaint Subcommittee will make a final review and decision.
5. Absent a request for a review by the Chief of Police with the Citizen Complaint Subcommittee or the Chief Investigator, the original decision shall be final, pending an appellate review by the full Board of Police Commissioners. (See Detroit City Code, Chapter 7.1103).
  6. All IC cases that involve a critical firearm discharge, serious use of force, suicide, or attempted suicide are forwarded to the Chief of Police for review and forwarded to Disciplinary Administration, if applicable, or for forwarding to the appropriate command to address other issues (e.g., training, risk, policy, etc.).
  7. The Chief of Police shall forward all sustained complaints to Disciplinary Administration for disciplinary processing (e.g., scheduling trial boards or referring to commands for Commander's Hearings).

### 102.6 -9.3 Confidentiality of Files

1. All reports relating to internal investigations are considered confidential and are to be used for internal department purposes. IC is responsible for maintaining all internal investigation files conducted by entities under their command. The OCI is responsible for maintaining files on all Citizen Complaint Reports and subsequent investigations.
2. Files or any part of a file maintained by IC or OCI shall not be released except in accordance with applicable state or federal law, or in response to a lawful subpoena from a court of competent jurisdiction. Offices shall be locked after working hours.
3. No copies of any IC file shall be made without the written permission of the Chief of Police. Review of IC files shall be authorized by the commanding officer of IC and is limited to persons who have a specific need to become familiar with a particular completed investigation.
4. The confidentiality of OCI files is the responsibility of the Board of Police Commissioners through the Chief Investigator who shall ensure that only authorized persons have access to those files.
5. Documents or copies of documents from citizen complaint files may be removed from the OCI by supervisory departmental members when necessary for the efficient conduct of investigations or disciplinary proceedings, but the confidentiality of such documents must be maintained. This request must be made in writing, to the Chief Investigator.
6. The following persons shall have access to citizen complaint files without specific written authorization:
  - a. The BPC's secretary to the board, attorney, chief investigator, supervising investigator, or any member of the investigative staff of the BPC.
7. The following persons shall have access to citizen complaint files or documents contained in those files only with appropriate written authorization identifying the file document to be examined, and stating the purpose for the examination:



# **DETROIT POLICE DEPARTMENT**

## **MANUAL**

---

### **102.6 Citizen Complaints**

- a. An assistant corporation counsel who is authorized by the corporation counsel to examine specified files or documents for legal purposes;
- b. Attorneys representing members in disciplinary matters; and
- c. A person authorized to examine specified files or documents by a court of competent jurisdiction.

### **102.6 - 10 Statistical Summaries**

#### **102.6 -10.1 Monthly Summary**

A monthly Summary of Citizen Complaints shall be prepared on an Inter-Office Memorandum (DPD568) by every command listing the total number of citizen complaints received; the number of citizen complaints resolved to the satisfaction of the citizen; and the number referred to IC and the OCI. The Summary of Citizen Complaints shall be forwarded to both IC and the OCI.

#### **102.6 -10.2 Annual Summary**

The OCI compiles an annual summary of its investigations. These summaries are distributed throughout the department and are available for release to citizens.

### **Related Polices:**

- Directive 201.11 – Use of Force Reporting and Investigation
- Training Directive 04-4 – Garrity Protocol

### **Related Forms:**

- Citizen Claim for Property Damage and/or Personal Injury (DPD 646)
- Citizen Complaint Report (DPD 512)
- Medical Record Release Authorization (DPD 332)
- Use of Force and/or Detainee Injury Report (UF-002)